

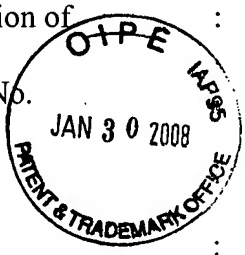
AP92

DOCKET NO.: 2003.09.005.WS0
Customer No.: 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Purva R. Rajkotia
Application No. : 10/764,175
Filed : January 23, 2004
For : APPARATUS AND METHOD FOR IMPROVED CALL
RELEASE IN A WIRELESS NETWORK
Art Unit : 2617
Examiner : Marisol Figueroa



MAIL STOP APPEAL BRIEF - PATENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

Sir:

The undersigned hereby certifies that the following documents:

1. Reply Brief; and
2. A postcard receipt

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to Mail Stop Appeal Brief - Patent, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on **January 28, 2008**.

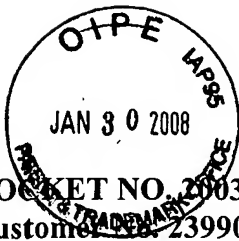
Date: 01/28/2008

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Date: 28 Jan. 2008

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MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This Brief is filed in response to the Examiner's Answer mailed November 28, 2007. No fee is believed due.

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Real Party in Interest

The real party in interest, and assignee of this case, is Samsung Electronics Co., Ltd.

Related Appeals or Interferences

To the best knowledge and belief of the undersigned attorney, there are none.

Status of Claims

Claims 1-19, 21-25, and 27-30 are under final rejection, and are each appealed. Claims 13-18 are allowed

Status of Amendments after Final

An amendment after final rejection was entered, and is reflected in the claims appendix. This amendment cancelled claims 20 and 26, adding those limitations to independent claims 19 and 25, respectively, and Claims 19 and 25 are argued below in their amended form.

Summary of Claimed Subject Matter

The following summary refers to disclosed embodiments and their advantages, but does not delimit any of the claimed inventions.

A Summary of Claimed Subject Matter and Support for Independent Claims was presented in the Appeal Brief, and is hereby incorporated by reference.

Grounds of Rejection to be Reviewed on Appeal

1. Are Claims 1-3, 7-9, and 13-15 unpatentable over “Applicant’s Admitted Prior Art” (“APA”) in view of U.S. Patent No. 6,418,322 to Kim *et al.*, hereinafter “Kim”?
2. Are Claims 4, 5, 10, 11, 16, and 17 unpatentable over U.S. Patent No. 6,418,322 to Kim *et al.*, hereinafter “Kim”, in view of U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”?
3. Are Claims 6, 12, and 18 unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent No. 6,418,322 to Kim *et al.*, hereinafter “Kim”, and U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”, in further view of U.S. Patent Publication No. 2002/0068586 to Chun *et al.*, “Chun”?
4. Are Claims 19, 21, 25, and 27 unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff”?
5. Are Claims 22, 23, 28, and 29 unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff” and further in view of U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”?

6. Are Claims 24 and 30 unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff”, U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”, and further in view of U.S. Patent Publication No. 2002/0068586 to Chun *et al.*, “Chun”?

ARGUMENT

Stated Grounds of Rejection

The rejections outstanding against the Claims are as follows:

In the February 9, 2007 Office Action, Claims 1-3, 7-9, and 13-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”) in view of U.S. Patent No. 6,418,322 to Kim *et al.*, hereinafter “Kim”.

In the February 9, 2007 Office Action, Claims 4, 5, 10, 11, 16, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,418,322 to Kim *et al.*, hereinafter “Kim”, in view of U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”.

In the February 9, 2007 Office Action, Claims 6, 12, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent No. 6,418,322 to Kim *et al.*, hereinafter “Kim”, and U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”, in further view of U.S. Patent Publication No. 2002/0068586 to Chun *et al.*, “Chun”.

In the February 9, 2007 Office Action, Claims 19-21, and 25-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff”.

In the February 9, 2007 Office Action, Claims 22, 23, 28, and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of

U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff” and further in view of U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”.

In the February 9, 2007 Office Action, Claims 24 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff”, U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”, and further in view of U.S. Patent Publication No. 2002/0068586 to Chun *et al.*, “Chun”.

Applicant respectfully notes that as claims 20 and 26 were cancelled in an after-final amendment, these claims will not be addressed under the fourth stated ground of rejection. However, since limitations of these claims were added to parent claims 19 and 25, respectively, these limitations will be discussed in relation to the parent claims.

The arguments in this Reply Brief are limited to responding to the issues raised by the Examiner’s Answer. Other arguments raised in the Appeal Brief are hereby incorporated by reference.

Legal Standards

The relevant legal standards were addressed in the Appeal Brief, and are hereby incorporated by reference.

Analysis of Examiner's Rejection

Each of the rejections relies on the teachings of what the Examiner characterizes as “Applicant’s Admitted Prior Art” or “APA”, in combination with up to three other references. As described below, however, each claim directly or indirectly includes limitations not taught by any art of record, alone or in combination.

First Ground of Rejection

Claims 1-3, 7-9, and 13-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”) in view of U.S. Patent No. 6,418,322 to Kim *et al.*, hereinafter “Kim”.

Applicant notes that Kim and the present application are commonly assigned.

The arguments of the Appeal Brief are incorporated by reference.

Claims 1, 7, and 13

As these independent claims include similar limitations, they similarly distinguish over any combination of APA and Kim, and may be considered together.

Claims 1 and 7 require a transmit power controller capable of adjusting a power level of null frames transmitted by said base station during the call set-up procedure. Claim 13 requires, during a call set-up procedure, adjusting a power level of said null frames transmitted to said mobile station by said base station. The Examiner concedes that this is not taught by APA. This is also not disclosed or suggested by Kim.

Kim does discuss power control on a forward channel, but nothing in Kim discusses any capability to do so during the call set-up procedure, as claimed. Kim teaches a method for improving forward power control in cellular mobile telecommunication system. According to the Kim’s disclosed methods, a call is first established between a mobile station and a base station. During the call, the forward power is controlled by decreasing the digital gain of the base station and increasing

the digital gain according to information about the quality of the forward link received from the mobile station. Kim's system requires that the call already be established before any power control takes place. This is contrary to the claimed invention, where the power level of the null frames can be or is adjusted during the call set-up procedure. No art of record teaches or suggests to one of skill in the art, having ordinary creativity and common sense, to adjust a power level of null frames transmitted by said base station during said call set-up procedure, as in each of these independent claims, or any base station or controller capable of doing so. No art of record teaches or suggests that this is possible or desirable. Certainly no art of record, along or in combination, teaches a base station having a transmit power controller capable of adjusting a power level of null frames transmitted by said base station during said call set-up procedure, in the contest of claims 1 and 7.

Applicant respectfully notes that this feature, as performed during call setup, is not even addressed by the Examiner in the final Office Action.

The Examiner responds in the Examiner's answer by alleging that "the recitation that the transmit power controller is 'capable of' performing a function is not a positive limitation", which is clearly incorrect by the plain language of the limitation, but the Examiner then properly recognizes that this claim language "requires the ability to so perform".

The Examiner states, with no basis whatsoever, that in Kim's system "the base station would be 'capable of' adjusting the power of the forward frames at any other point in time." This is not supported in Kim, and Examiner Figueroa makes no attempt at all to show any teaching in the art. Kim teaches a function to be performed only under specific and limited conditions, and Examiner

Figueroa makes a baseless and unsupported statement that Kim can perform the function under other conditions, contrary to Kim's own teachings.

As this feature of claims 1, 7 and 13 is not taught or suggested by any art of record, alone or in combination, the rejection of these claims, and dependent claims 2-3, 8-9, and 14-15 should be reversed.

Claims 2-3, 8-9, and 14-15

These claims each directly or indirectly include similar limitations, and so may be considered together. The limitations of the respective parent claims, and related arguments above, apply here as well and are hereby incorporated by reference.

Each of these claims requires, in response to detection of said at least one missing preamble frame from the mobile station, increasing a power level of null frames transmitted by said base station. This is not taught or suggested by the art of record.

The Examiner's rejection of these claims, in addition to the limitations of the respective parent claims, relies on an unsupported statement by the Examiner that the power measurement report messages (PMRMs) described by Kim are "fairly characterized as preamble frames since the MS transmit them in response to the reception of forward/null frames transmitted by the BS" (*Office Action page 4*). This assertion by the Examiner is simply without basis in Kim. Nothing in Kim teaches or suggests that the PMRM are preamble frames or their equivalents, and nothing in Kim teaches that they are transmitted in response to the reception of null frames.\

In response, the Examiner simply repeats this baseless and unsupported characterization.

The rejection of these claims should be reversed.

Second Ground of Rejection

The arguments of the Appeal Brief are incorporated by reference.

Third Ground of Rejection

The arguments of the Appeal Brief are incorporated by reference.

Fourth Ground of Rejection

Claims 19-21, and 25-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff”. Claims 20 and 26 were cancelled after final rejection, and their limitations incorporated into parent claims 19 and 25, respectively.

The arguments of the Appeal Brief are incorporated by reference.

Claims 19, 21 25, and 27

As these independent claims include similar limitations, they similarly distinguish over any combination of APA and Raff, and may be considered together. Claims 19 and 25 were amended after final rejection to include limitations previously found in claims 20 and 26.

Claims 19 and 25 each require that the power level of preamble frames transmitted by the mobile station is increased in response to the detection of at least one missing null frame from the

base station, and claims 21 and 27 therefore indirectly include this same limitation. None of the cited references, alone or in combination, teaches or suggests this feature.

Raaf does teach in paragraph 0037 (reproduced below) that power can be increased when there is “no reception of an acknowledgement message”, it does not teach or suggest that this can or should be done in response to the detection of at least one missing null frame from the base station. Nothing in Raaf teaches or suggests that a null frame can or should be used as the described “acknowledgement message”.

The Examiner’s response still fails to show any support for considering an “acknowledgement message” as a “null frame”, as claimed. The Examiner appears to believe that any message that is from a base station to a mobile station is the same as a null frame, which is clearly incorrect.

Further, as discussed in the Appeal Brief, Raaf teaches away from increasing power when at least one “acknowledgement message” is not received. Raaf teaches that when there is “no reception of an acknowledgement message ... it is appropriate to retransmit preamble with the same low power” (emphasis added).

The Examiner responds by suggesting that this is merely one of several “alternatives” proposed by Raaf. This is not true. Raaf teaches that it considers to be the “appropriate” response for a specific condition, and it is directly contrary from the claim limitation. The teaching that a preamble should be retransmitted at the same power does, in fact, discourage one of skill in the art from increasing power at that time.

As these features of claims 19 and 25 (as amended) are not taught or suggested by any art of record, alone or in combination, the obviousness rejection of claims these claims, and their dependents, should be reversed.

Fifth Ground of Rejection

Claims 22, 23, 28. and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Admitted Prior Art” (“APA”), in view of U.S. Patent Publication No. 2004/0029604 to Raaf *et al.*, hereinafter “Raff” and further in view of U.S. Patent Publication No. 2002/0090947 to Brooks *et al.*, hereinafter “Brooks”.

The arguments of the Appeal Brief are incorporated by reference.

Claims 22, 23, 28. and 29

These claims each directly or indirectly include similar limitations, and so may be considered together. The limitations of the respective parent claims, and related arguments above, apply here as well and are hereby incorporated by reference.

As the limitations of these claims are not taught or suggested by any combination of the art in combination with the limitations of the parent claims, including in particular the limitations argued above with respect to increasing the power level of preamble frames transmitted by the mobile station in response to the detection of at least one missing null frame from the base station, the rejection of these claims should be reversed.

Further, in this rejection, the Examiner adds Brooks, which actually teaches away from the limitations of the independent claims. Brooks also discusses “acknowledgement” messages, and indicates that these are clearly not null frames, but rather specific acknowledgements to other specific messages.

The Examiner responds by disagreeing, and with a non sequitur that a dropped call can be detected when an acknowledgement message is not received. The Examiner is evidently unable to show any teaching that Brooks' "acknowledgement" message is functionally equivalent to a null frame, and it certainly is not.

The rejection of these claims should be reversed.

Sixth Ground of Rejection

The arguments of the Appeal Brief are incorporated by reference.

REQUESTED RELIEF

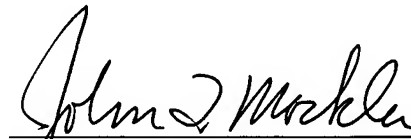
The Board is respectfully requested to reverse the outstanding rejections and return this application to the Examiner for allowance.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS CARTER, P.C.

Date: 28 Jan. 2008



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APPENDIX A -
Text of Claims on Appeal

1. (Previously Presented) For use in a wireless network, a base station capable of releasing a call between said base station and a mobile station during a call set-up procedure, said base station comprising:

a preamble frame detector capable of detecting preamble frames transmitted to said base station by said mobile station during said call set-up procedure; and

a transmit power controller capable of adjusting a power level of null frames transmitted by said base station during said call set-up procedure.

2. (Original) The base station as set forth in Claim 1 wherein said preamble frame detector of said base station is capable of detecting at least one missing preamble frame from said mobile station; and

wherein in response to said detection of said at least one missing preamble frame from said mobile station, said transmit power controller increases a power level of null frames transmitted by said base station.

3. (Original) The base station as set forth in Claim 2 wherein said transmit power controller increases said power level of null frames by a step size having a configurable value.

4. (Original) The base station as set forth in Claim 2 wherein said base station further comprises:

a fade timer having a configurable value;

wherein said base station starts said fade timer when said preamble frame detector detects at least one missing preamble frame from said mobile station; and

wherein said base station stops sending said null frames to said mobile station when said preamble frame detector detects at least one missing preamble frame from said mobile station.

5. (Original) The base station as set forth in Claim 4 wherein said base station releases said call between said base station and said mobile station when one of: said fade timer expires and a maximum power level for said null frames is exceeded.

6. (Original) The base station as set forth in Claim 4 wherein said configurable value of said fade timer is less than five seconds.

7. (Previously Presented) A wireless network comprising a plurality of base stations, each of said plurality of base stations capable of releasing a call between said base station and a mobile station during a call set-up procedure, wherein said each base station comprises:

a preamble frame detector capable of detecting preamble frames transmitted to said base station by said mobile station during said call set-up procedure; and

a transmit power controller capable of adjusting a power level of null frames transmitted by said base station during said call set-up procedure.

8. (Original) The wireless network as set forth in Claim 7 wherein said preamble frame detector of said each base station is capable of detecting at least one missing preamble frame from said mobile station; and

wherein in response to said detection of said at least one missing preamble frame from said mobile station, said transmit power controller increases a power level of null frames transmitted by said base station.

9. (Original) The wireless network as set forth in Claim 8 wherein said transmit power controller increases said power level of null frames by a step size having a configurable value.

10. (Original) The wireless network as set forth in Claim 8 wherein said each base station further comprises:

a fade timer having a configurable value;

wherein said each base station starts said fade timer when said preamble frame detector detects at least one missing preamble frame from said mobile station; and

wherein said each base station stops sending said null frames to said mobile station when said preamble frame detector detects at least one missing preamble frame from said mobile station.

11. (Original) The wireless network as set forth in Claim 10 wherein said each base station releases said call between said each base station and said mobile station when one of: said fade timer expires and a maximum power level for said null frames is exceeded.

12. (Original) The wireless network as set forth in Claim 10 wherein said configurable value of said fade timer is less than five seconds.

13. (Previously Presented) For use in a wireless network, a method of operating a base station during a call set-up procedure, the method comprising the steps of:

transmitting null frames from said base station to a mobile station during the call set-up procedure;

during the call set-up procedure, detecting in a preamble frame detector of said base station preamble frames from said mobile station; and

adjusting a power level of said null frames transmitted to said mobile station by said base station.

14. (Original) The method as set forth in Claim 13 further comprising the steps of:

detecting at least one missing preamble frame from said mobile station; and

in response to said detection of said at least one missing preamble frame from said mobile station, increasing a power level of null frames transmitted by said base station.

15. (Original) The method as set forth in Claim 14 wherein said power level of said null frames is increased by a step size having a configurable value.

16. (Original) The method as set forth in Claim 14 further comprising the steps of:
providing in said base station a fade timer that has a configurable value;
starting said fade timer when said preamble frame detector detects at least one missing preamble frame from said mobile station; and
stopping a transmission of said null frames to said mobile station when said preamble frame detector detects at least one missing preamble frame from said mobile station.

17. (Original) The method as set forth in Claim 16 further comprising the step of:
releasing a call between said base station and said mobile station when one of: said fade timer expires and a maximum power level for said null frames is exceeded.

18. (Original) The method as set forth in Claim 16 wherein said configurable value of said fade timer is less than five seconds.

19. (Previously Presented) For use in a wireless network, a mobile station capable of releasing a call between said mobile station and a base station during a call set-up procedure, said mobile station comprising:

a main processor;

a null frame monitor program capable of detecting null frames transmitted to said mobile station by said base station during said call set-up procedure, wherein said null frame monitor program of said mobile station is capable of detecting at least one missing null frame from said base station; and

a transmit power control program capable of adjusting a power level of preamble frames transmitted by said mobile station during said call set-up procedure, wherein in response to said detection of said at least one missing null frame from said base station, said transmit power control program increases a power level of preamble frames transmitted by said mobile station.

20. (Cancelled)

21. (Previously Presented) The base station as set forth in Claim 19 wherein said transmit power control program increases said power level of said preamble frames by a step size having a configurable value.

22. (Previously Presented) The mobile station as set forth in Claim 19 wherein said mobile station further comprises:

a fade timer having a configurable value;

wherein said mobile station starts said fade timer when said null frame monitor program detects at least one missing null frame from said base station; and

wherein said mobile station increases power to said preamble frames in relation to a detected number of missing null frames when said null frame monitor program detects missing null frames from said base station.

23. (Original) The mobile station as set forth in Claim 22 wherein said mobile station releases said call between said mobile station and said base station when one of: said fade timer expires and a maximum power level for said preamble frames is exceeded.

24. (Original) The mobile station as set forth in Claim 22 wherein said configurable value of said fade timer is less than five seconds.

25. (Previously Presented) For use in a wireless network, a method of operating a mobile station during a call set-up procedure, the method comprising the steps of:

transmitting preamble frames from said mobile station to a base station during the call set-up procedure;

during the call set-up procedure, detecting in a null frame monitor program of said mobile station null frames from said base station;

detecting at least one missing null frame from said base station; and

in response to said detection of said at least one missing null frame from said base station, increasing a power level of preamble frames transmitted by said mobile station; and

adjusting a power level of said preamble frames transmitted to said base station by said mobile station.

26. (Cancelled)

27. (Previously Presented) The method as set forth in Claim 25 wherein said power level of said preamble frames is increased by a step size having a configurable value.

28. (Previously Presented) The method as set forth in Claim 25 further comprising the steps of:

providing in said mobile station a fade timer that has a configurable value;
starting said fade timer when said null frame monitor program detects at least one missing null from said base station; and

increasing power to said preamble frames in relation to a detected number of missing null frames when said null frame monitor program detects missing null frames from said base station.

29. (Original) The method as set forth in Claim 28 further comprising the step of:

releasing a call between said mobile station and said base station when one of: said fade timer expires and a maximum power level for said preamble frames is exceeded.

30. (Original) The method as set forth in Claim 28 wherein said configurable value of said fade timer is less than five seconds.

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APPENDIX B -
Copy of Formal Drawings

Reply Brief – Serial No. 10/764,175..... Appendix B



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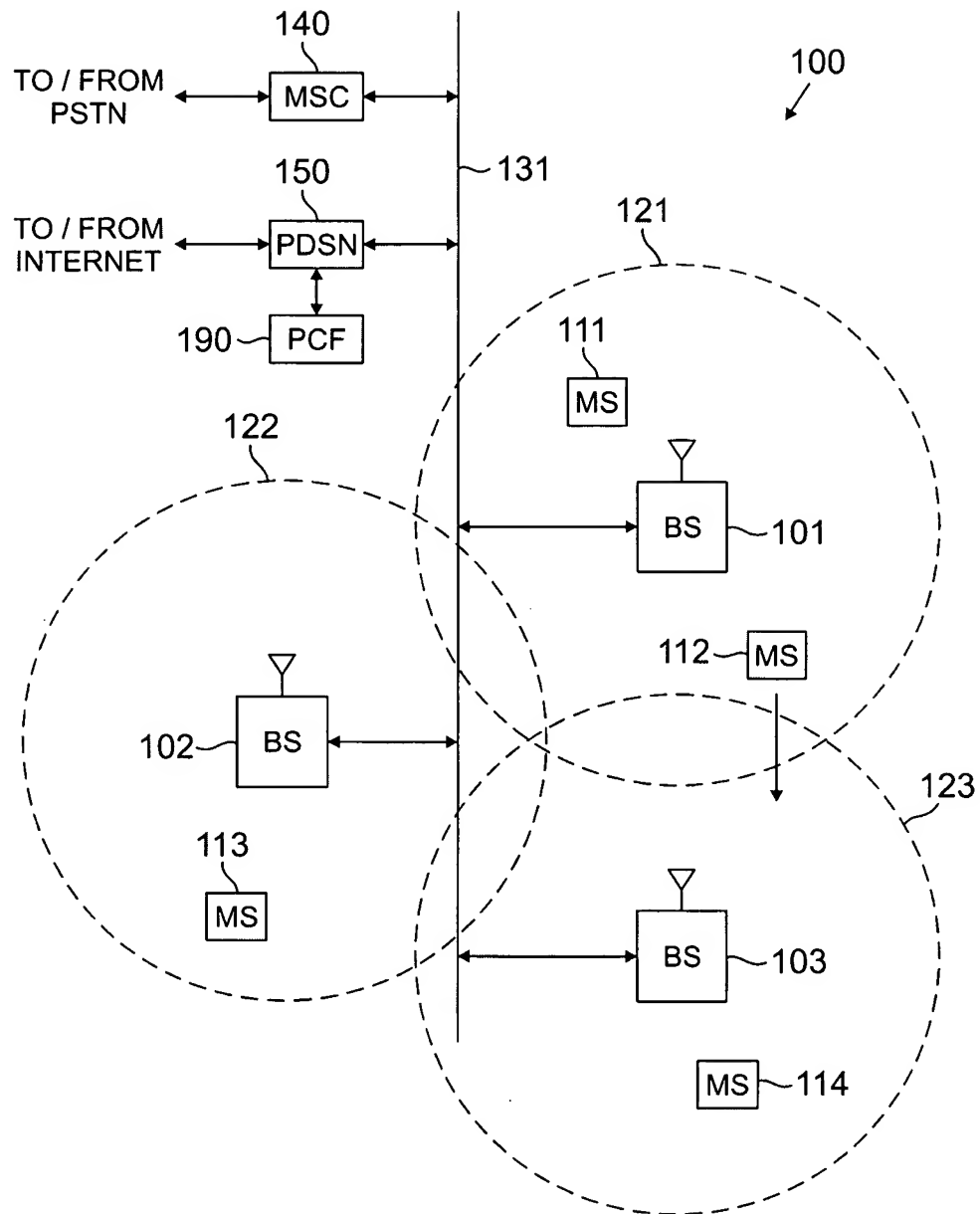


FIG. 1

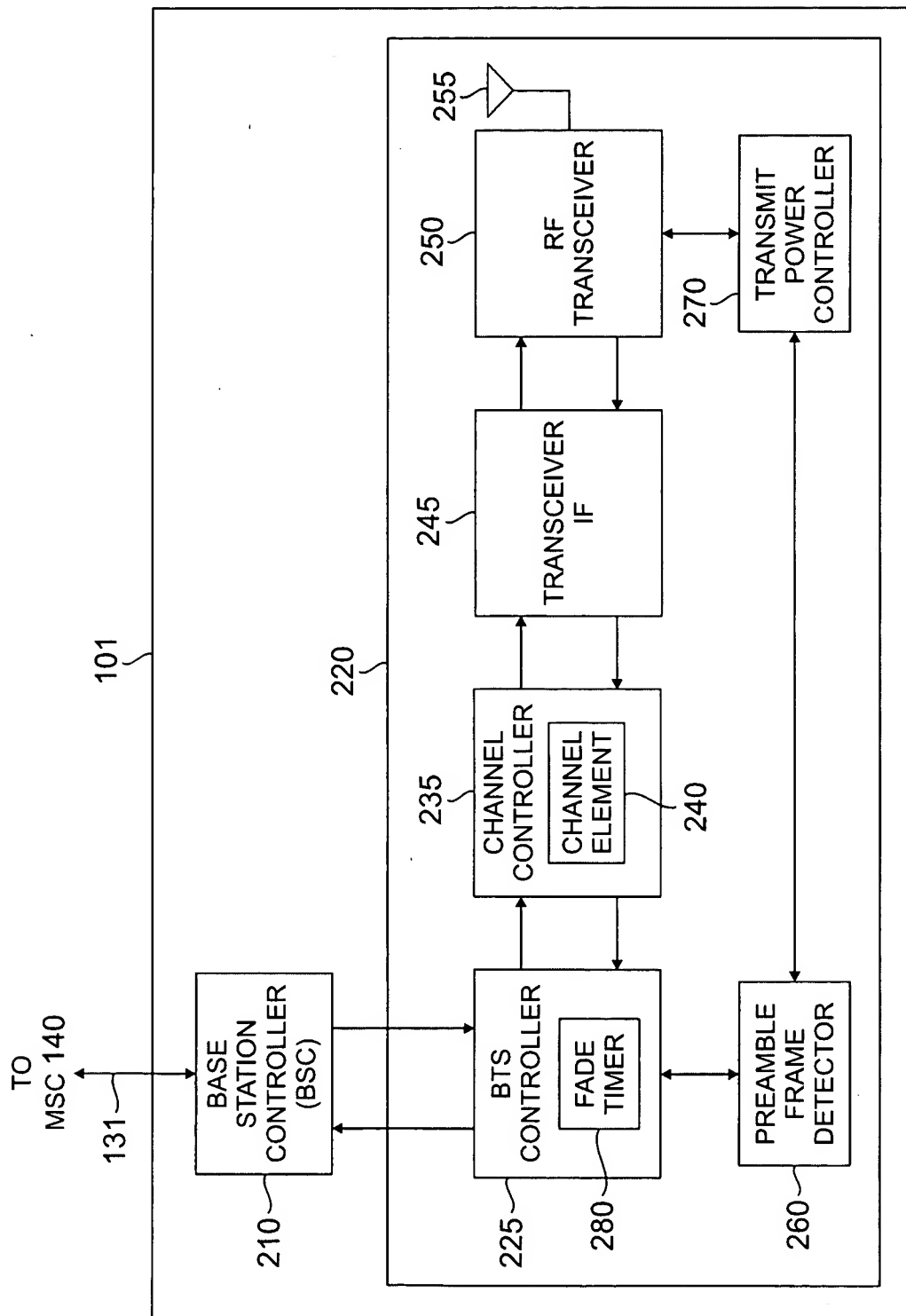


FIG. 2

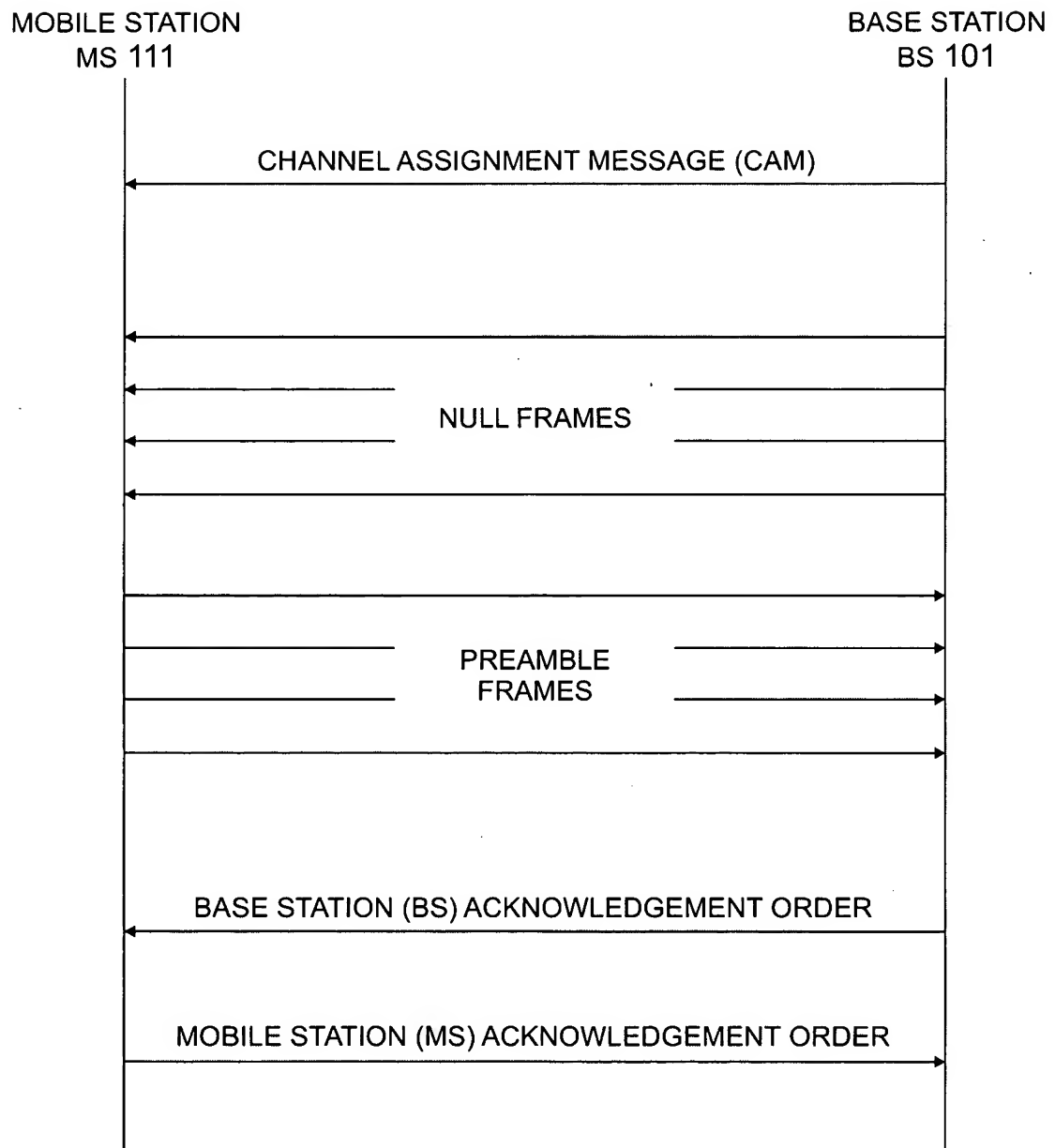


FIG. 3
(PRIOR ART)

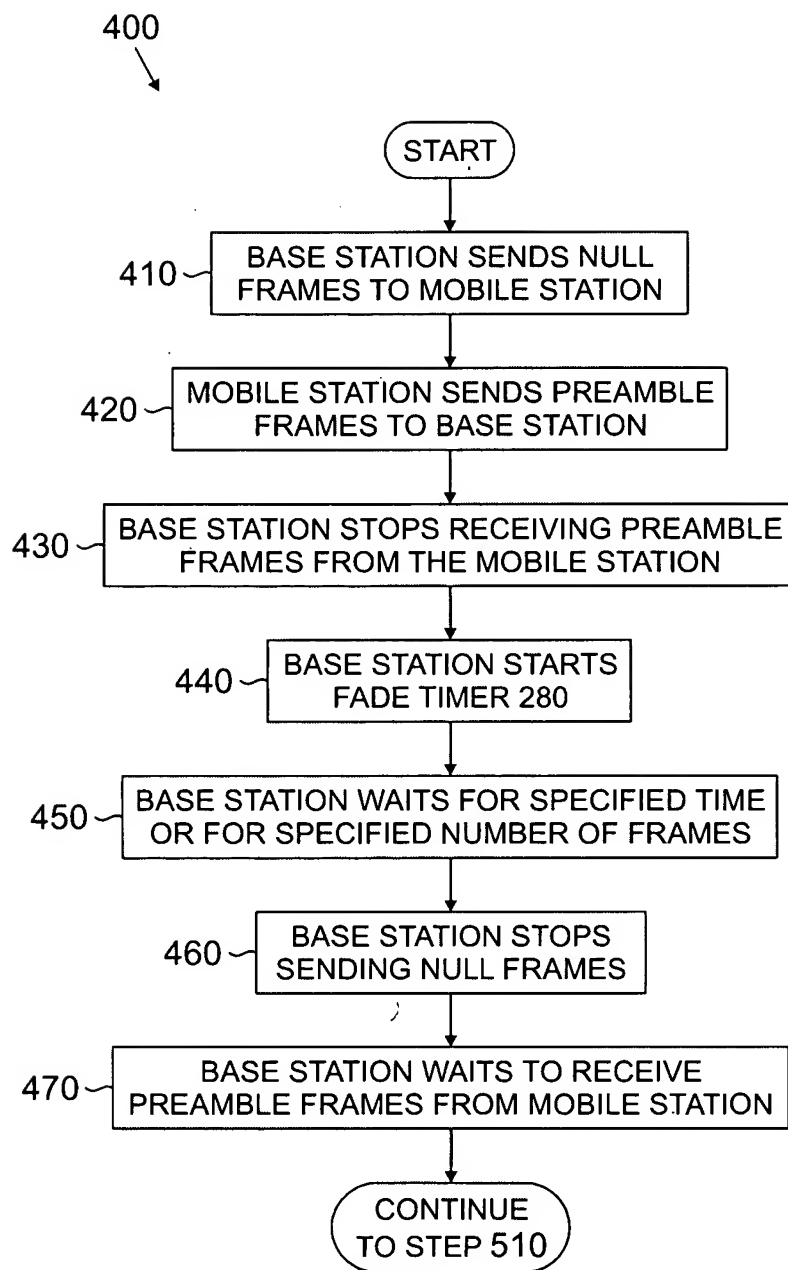


FIG. 4

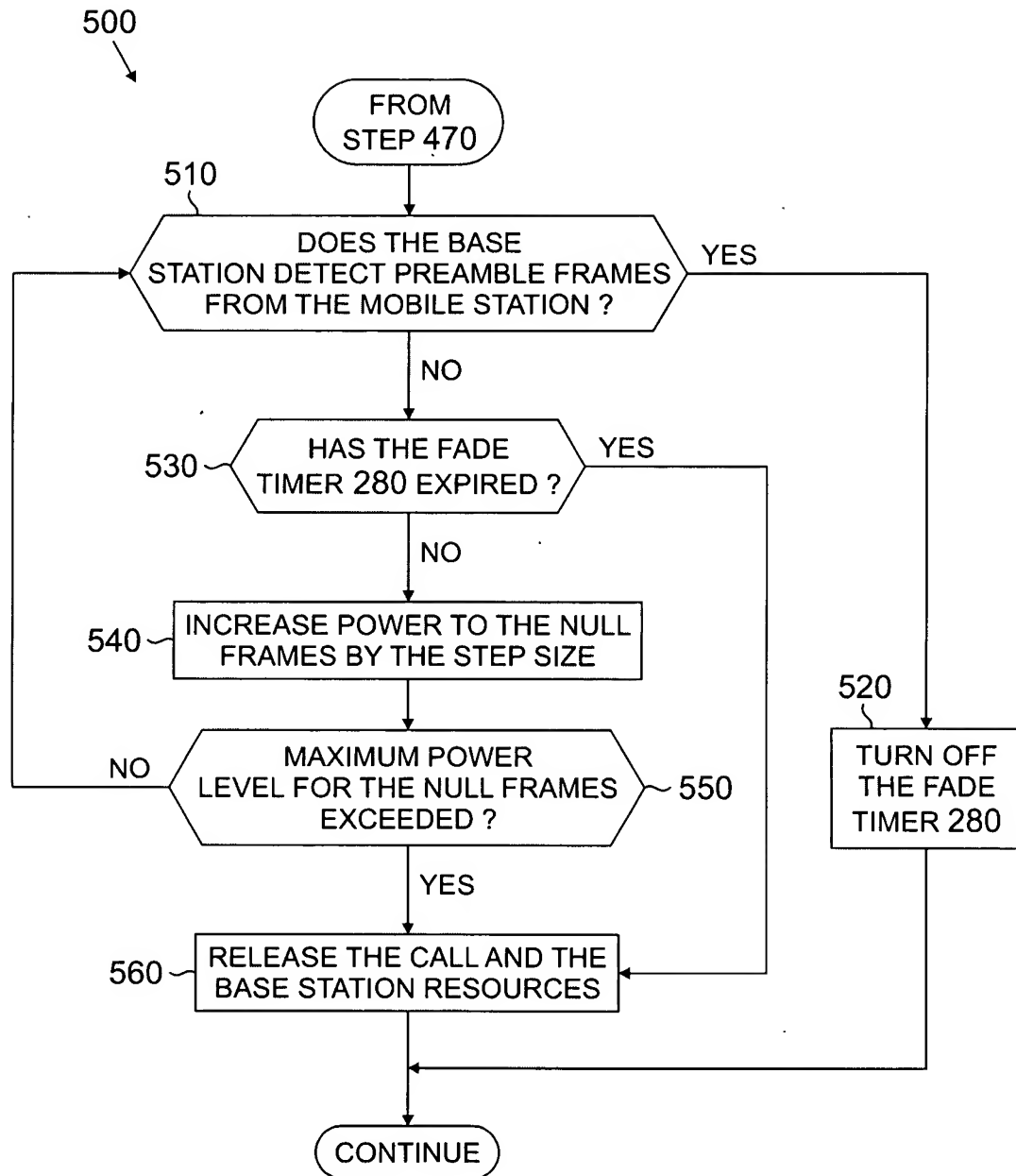


FIG. 5

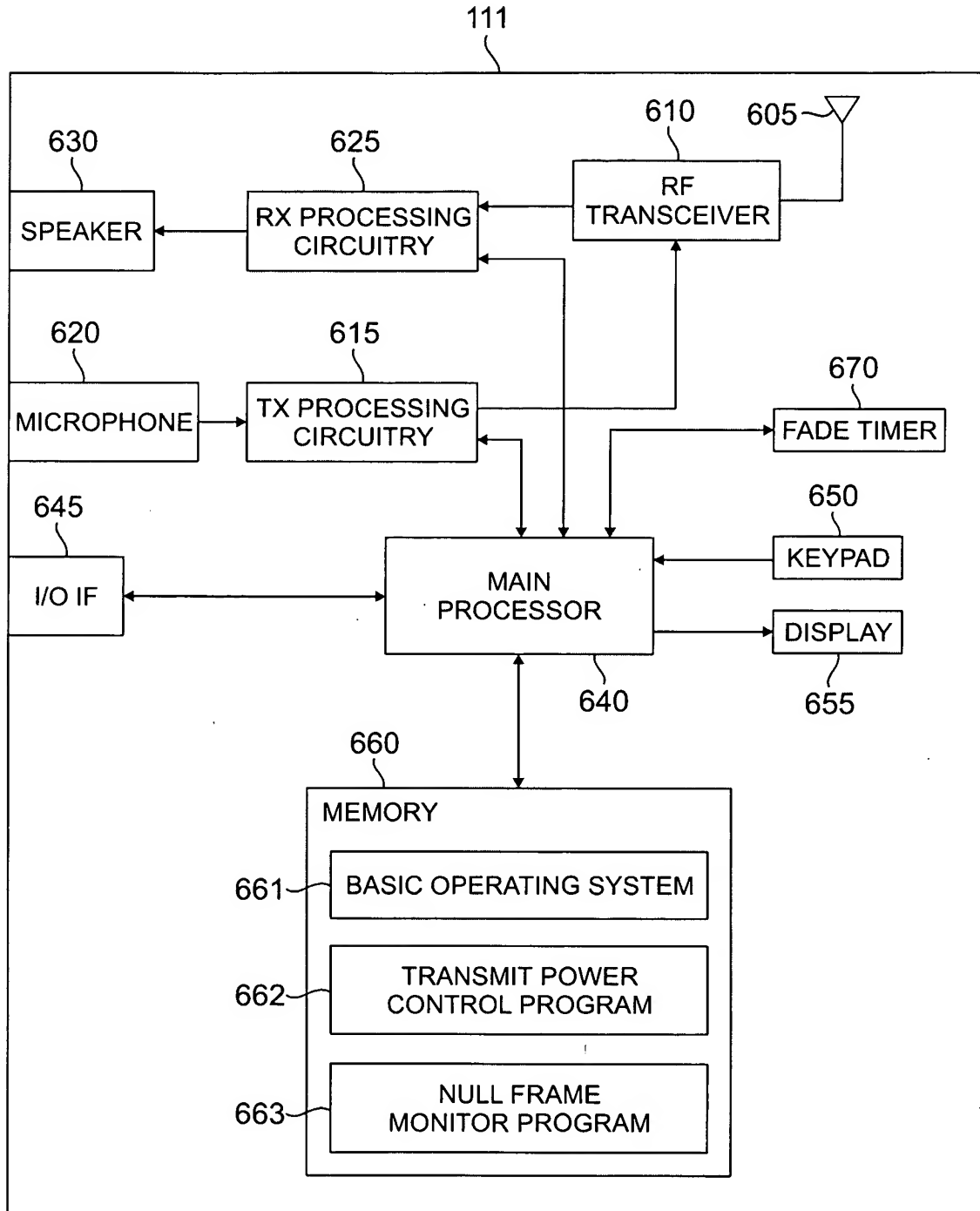


FIG. 6

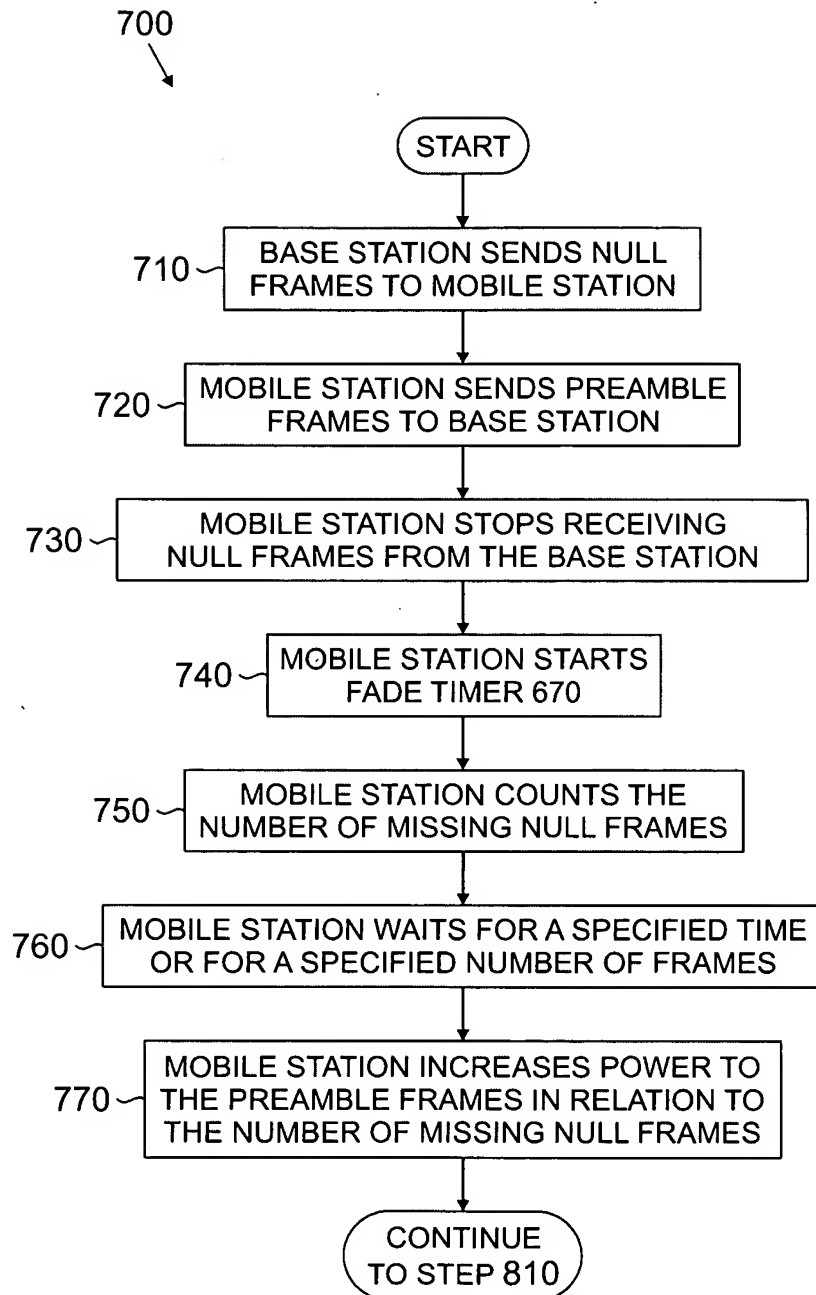


FIG. 7

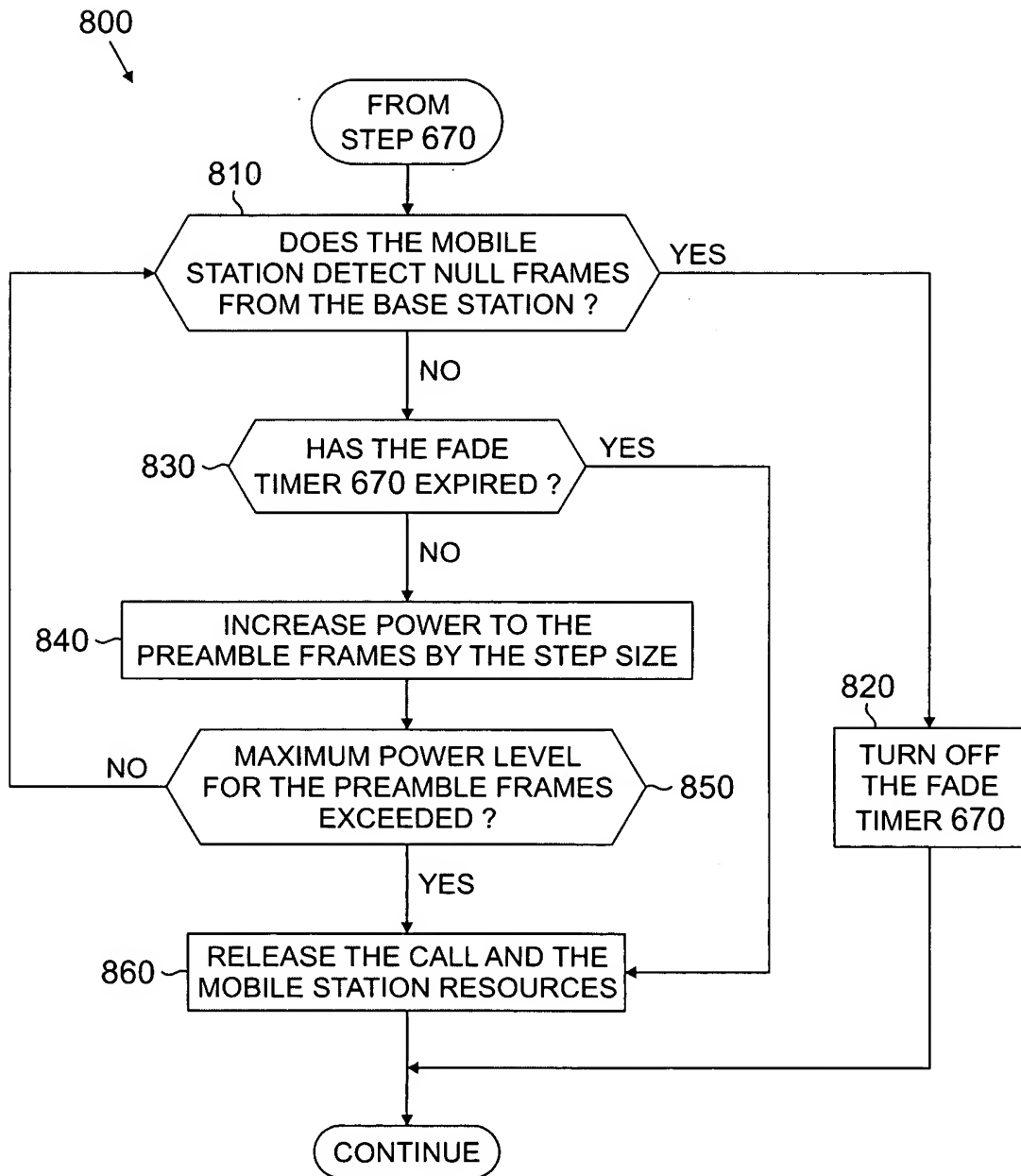


FIG. 8

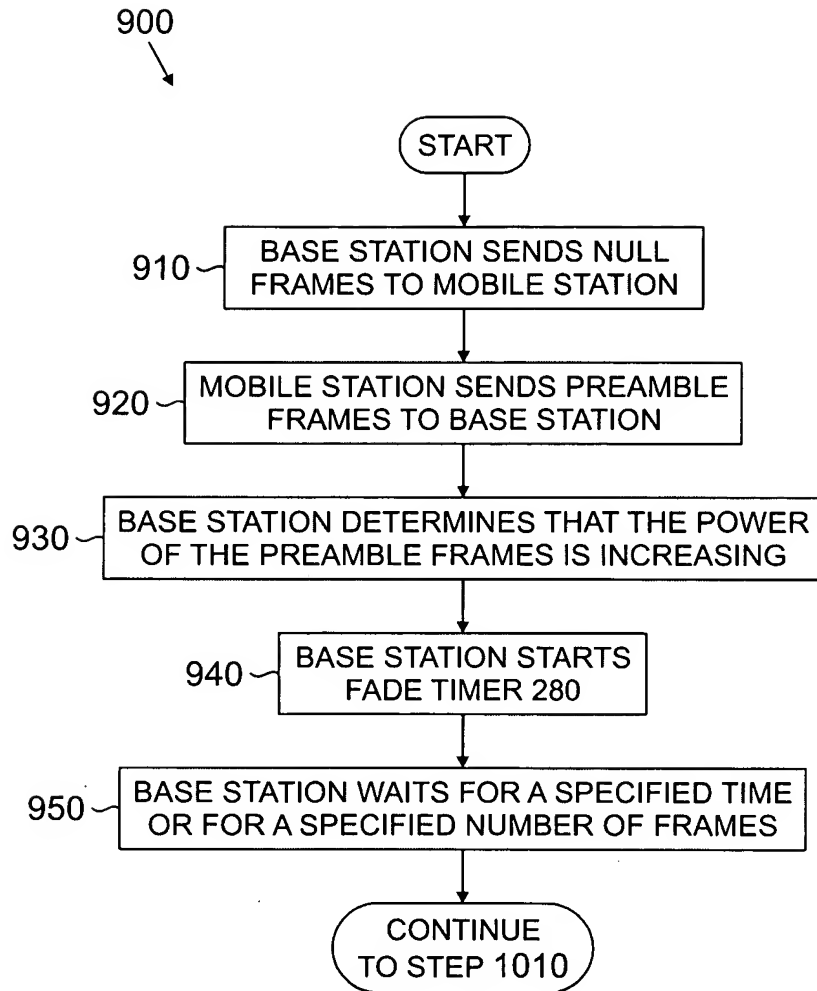


FIG. 9

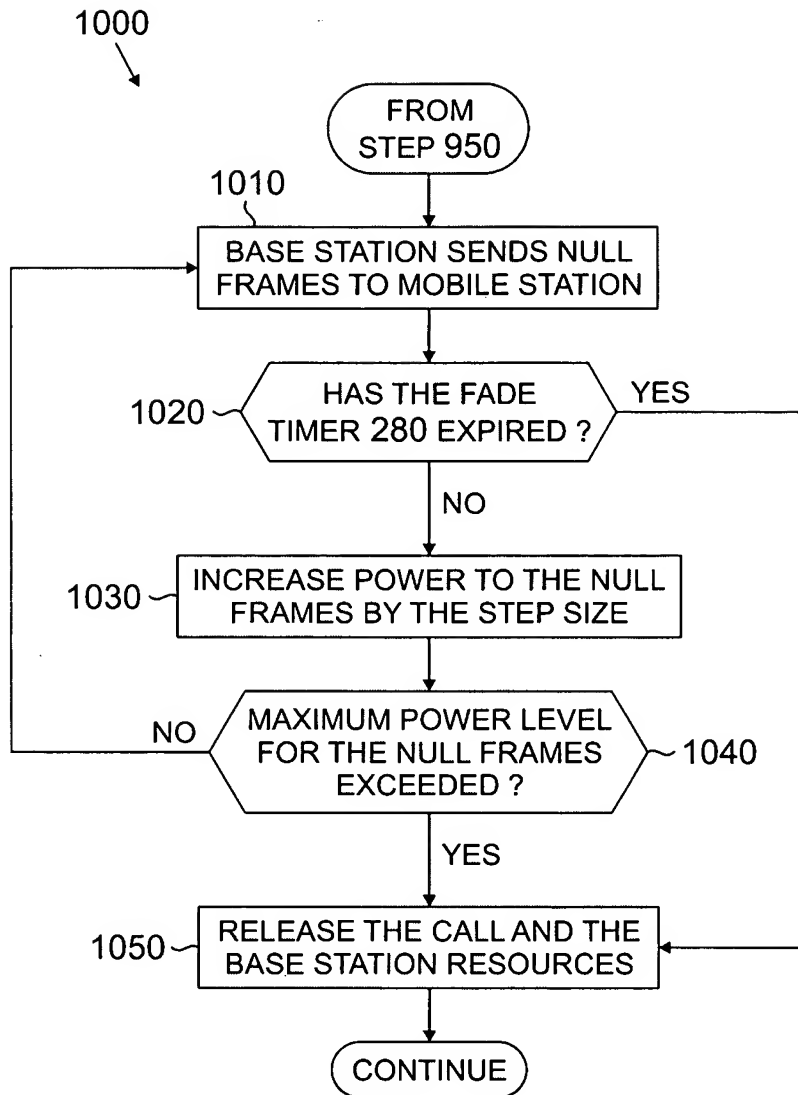


FIG. 10

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Purva R. Rajkotia
Serial No. : 10/764,175
Filed : January 23, 2004
For : APPARATUS AND METHOD FOR IMPROVED CALL
RELEASE IN A WIRELESS NETWORK
Group No. : 2617
Examiner : Marisol Figueroa

APPENDIX C -
Evidence Appendix

Not Applicable – None. No other evidence was entered.

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PATENT

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APPENDIX D -
Related Proceedings Appendix

Not Applicable -- To the best knowledge and belief of the undersigned attorney, there are none.

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